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**SENATE BILL 85**

**46TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2004**

**INTRODUCED BY**

**Richard C. Martinez**

**FOR THE LAND GRANT COMMITTEE**

**AN ACT**

**RELATING TO OPEN MEETINGS; REQUIRING THAT NOTICE BE GIVEN TO  
THE BOARD OF TRUSTEES OF A LAND GRANT-MERCED WHEN THE MEETINGS  
OF A PUBLIC BODY INVOLVE ISSUES OF CONCERN TO THE LAND GRANT-  
MERCED.**

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:**

**Section 1. Section 10-15-1 NMSA 1978 (being Laws 1974,  
Chapter 91, Section 1, as amended) is amended to read:**

**"10-15-1. FORMATION OF PUBLIC POLICY--PROCEDURES FOR OPEN  
MEETINGS--EXCEPTIONS AND PROCEDURES FOR CLOSED MEETINGS. --**

**A. In recognition of the fact that a representative  
government is dependent upon an informed electorate, it is  
declared to be public policy of this state that all persons are  
entitled to the greatest possible information regarding the  
affairs of government and the official acts of those officers**

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1 and employees who represent them. The formation of public  
2 policy or the conduct of business by vote shall not be  
3 conducted in closed meeting. All meetings of ~~[any]~~ a public  
4 body, except the legislature and the courts, shall be public  
5 meetings, and all persons so desiring shall be permitted to  
6 attend and listen to the deliberations and proceedings.

7 Reasonable efforts shall be made to accommodate the use of  
8 audio and video recording devices.

9 B. All meetings of a quorum of members of ~~[any]~~ a  
10 board, commission, administrative adjudicatory body or other  
11 policymaking body of ~~[any]~~ a state agency, ~~[any]~~ an agency or  
12 authority of ~~[any]~~ a county, municipality, district or ~~[any]~~  
13 political subdivision held for the purpose of formulating  
14 public policy, including the development of personnel policy,  
15 rules, regulations or ordinances, discussing public business or  
16 ~~[for the purpose of]~~ taking ~~[any]~~ action within the authority  
17 of or the delegated authority of ~~[any]~~ a board, commission or  
18 other policymaking body are declared to be public meetings open  
19 to the public at all times, except as otherwise provided in the  
20 constitution of New Mexico or the Open Meetings Act. ~~[No]~~ A  
21 public meeting once convened that is otherwise required to be  
22 open pursuant to the Open Meetings Act shall not be closed or  
23 dissolved into small groups or committees for the purpose of  
24 permitting the closing of the meeting.

25 C. If otherwise allowed by law or rule of the

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1 public body, a member of a public body may participate in a  
2 meeting of the public body by means of a conference telephone  
3 or other similar communications equipment when it is otherwise  
4 difficult or impossible for the member to attend the meeting in  
5 person, provided that each member participating by conference  
6 telephone can be identified when speaking, all participants are  
7 able to hear each other at the same time and members of the  
8 public attending the meeting are able to hear ~~[any]~~ a member of  
9 the public body who speaks during the meeting.

10 D. ~~[Any]~~ Meetings at which the discussion or  
11 adoption of ~~[any]~~ a proposed resolution, rule, regulation or  
12 formal action occurs and at which a majority or quorum of the  
13 body is in attendance, and ~~[any]~~ closed meetings, shall be held  
14 only after reasonable notice to the public. The affected body  
15 shall determine at least annually in a public meeting what  
16 notice for a public meeting is reasonable when applied to that  
17 body. That notice shall include broadcast stations licensed by  
18 the federal communications commission and newspapers of general  
19 circulation that have provided a written request for ~~[such]~~  
20 notice. If an agenda item of the meeting concerns matters that  
21 involve a land grant-merced pursuant to Chapter 49 NMSA 1978,  
22 notice shall be given to the board of trustees or other  
23 governing body of the land grant-merced involved.

24 E. A public body may recess and reconvene a meeting  
25 to a day subsequent to that stated in the meeting notice if,

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1 prior to recessing, the public body specifies the date, time  
2 and place for continuation of the meeting and, immediately  
3 following the recessed meeting, posts notice of the date, time  
4 and place for the reconvened meeting on or near the door of the  
5 place where the original meeting was held and in at least one  
6 other location appropriate to provide public notice of the  
7 continuation of the meeting. Only matters appearing on the  
8 agenda of the original meeting may be discussed at the  
9 reconvened meeting.

10 F. Meeting notices shall include an agenda  
11 containing a list of specific items of business to be discussed  
12 or transacted at the meeting or information on how the public  
13 may obtain a copy of such an agenda. Except in the case of an  
14 emergency, the agenda shall be available to the public at least  
15 twenty-four hours prior to the meeting. Except for emergency  
16 matters, a public body shall take action only on items  
17 appearing on the agenda. For purposes of this subsection, [an]  
18 "emergency" refers to unforeseen circumstances that, if not  
19 addressed immediately by the public body, will likely result in  
20 injury or damage to persons or property or substantial  
21 financial loss to the public body.

22 G. The board, commission or other policymaking body  
23 shall keep written minutes of all its meetings. The minutes  
24 shall include at a minimum the date, time and place of the  
25 meeting, the names of members in attendance and those absent,

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1 the substance of the proposals considered and a record of ~~[any]~~  
2 decisions and votes taken that show how each member voted. All  
3 minutes are open to public inspection. Draft minutes shall be  
4 prepared within ten working days after the meeting and shall be  
5 approved, amended or disapproved at the next meeting where a  
6 quorum is present. Minutes shall not become official until  
7 approved by the policymaking body.

8 H. The provisions of Subsections A, B and G of this  
9 section do not apply to:

10 (1) meetings pertaining to issuance,  
11 suspension, renewal or revocation of a license, except that a  
12 hearing at which evidence is offered or rebutted shall be open.  
13 All final actions on the issuance, suspension, renewal or  
14 revocation of a license shall be taken at an open meeting;

15 (2) limited personnel matters; provided that  
16 for purposes of the Open Meetings Act, "limited personnel  
17 matters" means the discussion of hiring, promotion, demotion,  
18 dismissal, assignment or resignation of or the investigation or  
19 consideration of complaints or charges against ~~[any]~~ an  
20 individual public employee; provided further that this  
21 ~~[subsection]~~ paragraph is not to be construed as to exempt  
22 final actions on personnel from being taken at open public  
23 meetings, nor does it preclude an aggrieved public employee  
24 from demanding a public hearing. Judicial candidates  
25 interviewed by ~~[any]~~ a commission shall have the right to

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1 demand an open interview;

2 (3) deliberations by a public body in  
3 connection with an administrative adjudicatory proceeding. For  
4 purposes of this paragraph, [~~an~~] "administrative adjudicatory  
5 proceeding" means a proceeding brought by or against a person  
6 before a public body in which individual legal rights, duties  
7 or privileges are required by law to be determined by the  
8 public body after an opportunity for a trial-type hearing.  
9 Except as otherwise provided in this section, the actual  
10 administrative adjudicatory proceeding at which evidence is  
11 offered or rebutted and [~~any~~] final action taken as a result of  
12 the proceeding shall occur in an open meeting;

13 (4) the discussion of personally identifiable  
14 information about [~~any~~] an individual student, unless the  
15 student, his parent or guardian requests otherwise;

16 (5) meetings for the discussion of bargaining  
17 strategy preliminary to collective bargaining negotiations  
18 between the policymaking body and a bargaining unit  
19 representing the employees of that policymaking body and  
20 collective bargaining sessions at which the policymaking body  
21 and the representatives of the collective bargaining unit are  
22 present;

23 (6) that portion of meetings at which a  
24 decision is made concerning purchases in an amount exceeding  
25 two thousand five hundred dollars (\$2,500) that can be made

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1 only from one source and that portion of meetings at which the  
2 contents of competitive sealed proposals solicited pursuant to  
3 the Procurement Code are discussed during the contract  
4 negotiation process. The actual approval of purchase of the  
5 item or final action regarding the selection of a contractor  
6 shall be made in an open meeting;

7 (7) meetings subject to the attorney-client  
8 privilege pertaining to threatened or pending litigation in  
9 which the public body is or may become a participant;

10 (8) meetings for the discussion of the  
11 purchase, acquisition or disposal of real property or water  
12 rights by the public body;

13 (9) those portions of meetings of committees  
14 or boards of public hospitals where strategic and long-range  
15 business plans or trade secrets are discussed; and

16 (10) that portion of a meeting of the gaming  
17 control board dealing with information made confidential  
18 pursuant to the provisions of the Gaming Control Act.

19 I. If ~~[any]~~ a meeting is closed pursuant to the  
20 exclusions contained in Subsection H of this section ~~[the~~  
21 ~~closure]~~:

22 (1) the closure, if made in an open meeting,  
23 shall be approved by a majority vote of a quorum of the  
24 policymaking body; the authority for the closure and the  
25 subject to be discussed shall be stated with reasonable

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1 specificity in the motion calling for the vote on a closed  
2 meeting; the vote shall be taken in an open meeting; and the  
3 vote of each individual member shall be recorded in the  
4 minutes. Only those subjects announced or voted upon prior to  
5 closure by the policymaking body may be discussed in a closed  
6 meeting; and

7 (2) the meeting, if a closure is called for  
8 when the policymaking body is not in an open meeting, shall not  
9 be held until public notice, appropriate under the  
10 circumstances, stating the specific provision of the law  
11 authorizing the closed meeting and stating with reasonable  
12 specificity the subject to be discussed is given to the members  
13 and to the general public.

14 J. Following completion of [~~any~~] a closed meeting,  
15 the minutes of the open meeting that was closed or the minutes  
16 of the next open meeting if the closed meeting was separately  
17 scheduled shall state that the matters discussed in the closed  
18 meeting were limited only to those specified in the motion for  
19 closure or in the notice of the separate closed meeting. This  
20 statement shall be approved by the public body under Subsection  
21 G of this section as part of the minutes."